

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA

v.

MICHAEL DEWAYNE HOLINESS (1)

§
§
§
§
§

CRIMINAL NO. 4:14-CR-120-ALM-KPJ-1

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the Government's request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on October 6, 2022, to determine whether Defendant violated his supervised release. Defendant was represented by Michelle Allen-McCoy. The Government was represented by Tracey Batson.

On June 2, 2015, United States District Judge Amos L. Mazzant III, sentenced Defendant to a total term of one hundred and five (105) months' imprisonment followed by three (3) years of supervised release.

On August 29, 2022, the U.S. Probation Office filed a Petition for Warrant or Summons for Offender under Supervision (the "Petition") in the Eastern District of Texas *See* Dkt. 55. The Petition asserts Defendant violated the following conditions of supervision: (1) Defendant shall not unlawfully possess a controlled substance. Defendant shall refrain from any unlawful use of a controlled substance. Defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the Court; (2) Defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons; (3) Defendant shall participate in a program of testing and treatment for substance abuse and, under the guidance and direction of the U.S.

Probation Office, until such time as Defendant is released from the program by the probation officer. The defendant must pay any cost associated with treatment and testing.

The Petition asserts Defendant violated the foregoing conditions as follows:

- On May 24, 2022, June 22, 2022, July 15, 2022, and July 26, 2022, Defendant submitted urine specimens which tested positive for marijuana. The specimens were confirmed positive by Alere Toxicology Services. On August 9, 2022, Defendant submitted a urine specimen which tested positive for marijuana and cocaine. The specimen was confirmed positive by Alere Toxicology Services.
- Since his release from the Bureau of Prisons, Defendant has failed to obtain full time employment.
- On June 7, 2022, and August 16, 2022, Defendant failed to report for random drug testing.

On October 6, 2022, the Court conducted a final revocation hearing. *See* Dkt. 68. Defendant entered a plea of true to allegations 1 (marijuana only), 2, and 3. *See id.* The Government moved to withdraw the allegation of cocaine use contained in allegation 1, which the Court granted. Defendant waived his right to object to the proposed findings and recommendations of the United States Magistrate Judge. *See* Dkt. 69. The Court finds that Defendant violated the terms of his supervised release, and thus, his supervised release should be revoked.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984, and having considered the arguments presented at the October 6 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of seven (7) months, to be followed by two (2) years of supervised release under the same conditions previously imposed.

So ORDERED and SIGNED this 11th day of October, 2022.

A handwritten signature in black ink, appearing to read 'K. Priest Johnson', written over a horizontal line.

KIMBERLY C. PRIEST JOHNSON
UNITED STATES MAGISTRATE JUDGE